

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STATE FARM AUTOMOBILE	:	2:15-cv-05929-JCJ
INSURANCE COMPANY, ET AL.	:	
	:	
v.	:	
	:	
STAVROPOLSKIY, ET AL.	:	

ANSWER & NEW MATTER OF DEFENDANTS

Defendants Leonard Stavropolskiy, P.T., D.C., Joseph Wang, P.T., D.C., Eastern Approach Rehabilitation, LLC, and Aquatic Therapy of Chinatown, Inc., by and through their attorneys Baratta, Russell & Baratta, present the below Answer and New Matter to the Amended Complaint of State Farm.

I. INTRODUCTION

1. Denied. This action is a collection of knowingly false accusations made by State Farm as part of a business scheme to undercut the credibility of its own insureds and their doctors in order to cheat its insureds out of the auto insurance coverage they have paid for and which is required by Pennsylvania law.
2. Denied. All of the services ever performed by Dr. Wang and Dr. Stavropolskiy have been reasonable and necessary.
3. Denied. These allegations are knowingly false.
4. Denied.
5. Denied. Defendants did not ever “abuse” the Writepad computer program and only ever utilized it specifically as it is intended to be used.
6. Denied.

7. Denied. All of the services provided to their patients by Defendants have been reasonable and necessary and fully compensable under Pennsylvania law as well as the insurance contract State Farm seeks to avoid honoring.

8. Denied.

9. Denied.

II. JURISDICTION AND VENUE

10. Denied as a conclusion of law to which no response is required.

11. Denied as a conclusion of law to which no response is required.

III. THE PARTIES

12. Denied. It is denied that State Farm provides insurance coverage to its customers.

Rather, State Farm promises insurance coverage and reaps billions of dollars every year from its customers as payment for coverage, but State Farm is a company devoted to avoiding at all costs ever actually providing the coverage it promises.

13. Admitted. By way of further response, Eastern Approach did not purport to provide such services, it actually did.

14. Admitted. By way of further response, Aquatic Therapy did not purport to provide such services, it actually did.

15. Admitted.

16. Admitted.

IV. FACTS

A. State Farm's Business Scheme of Attacking the Credibility of Patients who Have Suffered Injuries in Auto Accidents

17. Denied. Defendants do not purport to provide such services, they actually provide them.

18. Admitted. By way of further response, State Farm has invented a business strategy of denying the legitimacy of any complaints of neck and back pain suffered as the result of motor vehicle accidents.
19. Admitted. By way of further response, State Farm's business strategy is to deny the legitimacy of any such diagnoses or treatment plan.
20. Admitted.
21. Denied. This averment is directly at odds with State Farm's own auto claims manual and accepted science.
22. Denied.
23. Denied. This averment is directly at odds with State Farm's own auto claims manual and accepted science.
24. Denied.
25. Denied.
26. Denied.
- B. State Farm's Scheme to Falsely Brand Doctors Frauds as a Means of Reducing Claims Expenses and Increase Profit
27. Denied. State Farm has not been damaged and this lawsuit is about intimidation and bullying doctors into providing less treatment than is needed by their patients.
28. Denied. It is denied that Defendants have made any misrepresentations of any kind.
29. Denied. State Farm's allegations are knowingly false.
30. Denied.
31. Denied. It is expressly denied that Defendants use predetermined treatment plans and it is denied that the treatment provided to patients is not uniquely tailored to the patient's needs.

32. Denied. It is denied that Defendants used the Writepad program for any purpose other than that which it is expressly designed.

33. Denied. It is denied that any misrepresentations were ever made.

34. Denied. It is denied there is any scheme.

35. Denied. Defendants' records have been used to substantiate the treatment provided to their patients. The records clearly do substantiate and justify the treatment provided, as evidenced by State Farm's and all other insurance companies' payment for said treatment.

36. Denied. It is denied that State Farm has ever relied upon any submission made in any claim. State Farm is a company which seeks to undercut the credibility of every document it receives in support of a claim and if a bill is paid, it means State Farm could find no excuse to deny it.

C. The Well Documented Initial Examinations

37. Denied. As per its business scheme, State Farm treats any finding and diagnosis of an injury in an auto accident as false.

38. Denied. It is denied that there are ever predetermined findings. It is also denied that the findings are ever non-credible.

39. Denied. The record speaks for itself.

40. Admitted.

41. Denied. Denied. The record speaks for itself.

42. Denied. The record speaks for itself.

43. Denied. The record speaks for itself.

44. Denied. The record speaks for itself.

45. Denied. The record speaks for itself.

46. Denied. The record speaks for itself.

47. Denied.

48. Denied.

D. The Daily Visit Notes Reflect Reasonable and Necessary Treatment

49. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

50. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

51. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

52. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

53. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

54. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

55. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

56. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

57. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

58. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

59. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

60. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

61. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

62. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

63. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

64. Denied. The records speak for themselves and reflect reasonable and necessary treatment.

65. Denied. It is denied that any treatment has ever been provided which was contradicted. It is also denied that State Farm has any concept of or respect for what is reasonable and necessary medical treatment.

E. The “WritePad” Software Program Was At All Times Used As Designed

66. Denied in that Defendants do not know what State Farm is referring to or means by the phrase “according to Stavropolskiy.”

67. Denied. It is denied that Defendants ever used the Writepad program for any purpose other than that for which it is designed. It is further denied that Defendants ever did anything which could credibly be characterized as illegitimate.

68. Denied. Defendants are without sufficient information to admit or deny how Writepad markets itself.

69. Denied. Defendants are without sufficient information to admit or deny how Writepad markets itself.

70. Denied.

71. Denied. The records speak for themselves.

72. Denied.

F. State Farm's Has Only Ever Made Payments on a Claim After Finding No Excuse to Deny the Payments

73. Denied.

74. Denied.

75. Denied. State Farm's claims of "justifiable reliance" are directly contradictory to every other allegation made in its lawsuit and as well its entire business model.

76. Denied.

77. Denied.

78. Denied. State Farm's lawsuit alleges that it did not actually read the records it now says are non-credible on their face. This is not reasonable diligence.

79. Denied.

80. Denied.

81. Denied.

V. CAUSES OF ACTION

First Cause of Action
Fraud Against All Defendants

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Denied.

WHEREFORE, Defendants request this Court to enter judgment in their favor and against State Farm together with all costs and fees applicable.

Second Cause of Action
Statutory Insurance Fraud
Violations of 18 Pa.C.S. §§ 4117 *et seq.*
Against All Defendants

88. Denied.

89. Denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

WHEREFORE, Defendants request this Court to enter judgment in their favor and against State Farm together with all costs and fees applicable.

Third Cause of Action
Unjust Enrichment Against All Defendants

100. Denied.

101. Denied.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

WHEREFORE, Defendants request this Court to enter judgment in their favor and against State Farm together with all costs and fees applicable.

Fourth Cause of Action
Restitution for Mistaken Payment Against All Defendants

107. Denied.

108. Denied.

109. Denied.

110. Denied.

111. Denied.

112. Denied.

WHEREFORE, Defendants request this Court to enter judgment in their favor and against State Farm together with all costs and fees applicable.

Fifth Cause of Action
Declaratory Judgment
28 U.S.C. §§ 2201 and 2202

113. Denied.

114. Denied.

115. Denied.

116. Denied

117. (i-iii) Denied.

WHEREFORE, Defendants request this Court to enter judgment in their favor and against State Farm together with all costs and fees applicable.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

118. All of the relief requested in Plaintiff's Amended complaint is barred by the statute of limitations which governs each purported cause of action.

SECOND AFFIRMATIVE DEFENSE

119. The Plaintiffs have failed to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

120. The relief requested by the Plaintiffs should be denied based on the equitable defenses of accord, satisfaction, laches, release, statute of frauds, unclean hands and/or waiver.

FOURTH AFFIRMATIVE DEFENSE

121. The defendants have neither breached nor violated any duties owed to the Plaintiff under common law, statute, agreement, or otherwise.

FIFTH AFFIRMATIVE DEFENSE

122. The plaintiffs have failed to mitigate their damages, if any, as required by law.

SIXTH AFFIRMATIVE DEFENSE

123. The plaintiff's claims are barred under the economic loss doctrine.

SEVENTH AFFIRMATIVE DEFENSE

124. The Plaintiff's claims, if any, are barred because they are not entitled to the remedies sought.

EIGHTH AFFIRMATIVE DEFENSE

125. The Plaintiff's claims, if any, are barred because the sole proximate cause of the Plaintiffs alleged damages was something other than the conduct of defendants, or, in the alternative, because the sole proximate cause of Plaintiff's damages was the acts or omissions of some person or entity other than the Defendants.

NINTH AFFIRMATIVE DEFENSE

126. The Plaintiff's claims, if any, are barred because Plaintiff has failed to join necessary and indispensable parties.

TENTH AFFIRMATIVE DEFENSE

127. The Plaintiffs' Claims, if any, are barred because Defendants made no misrepresentations of any kind.

ELEVENTH AFFIRMATIVE DEFENSE

128. The Plaintiffs' Claims, if any, are barred because Plaintiffs did not rely, justifiably or otherwise, on any representation or submission by Defendants.

129. Defendants may have other affirmative defenses of which they are presently unaware and accordingly, reserve the right to allege additional affirmative defenses upon further investigation and discovery.

BARATTA, RUSSELL & BARATTA

Date: 5/27/16

By: APB2
ANDREW P. BARATTA, ESQUIRE
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VERIFICATION

I, Leonard Stavropolskiy, individually and as authorized representative of Eastern Approach Rehabilitation LLC and Aquatic Therapy of Chinatown, Inc., hereby verify that the information contained in the foregoing is based on first-hand information and on information furnished to counsel and obtained by counsel in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by counsel during the course of this lawsuit, the affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

/s/ Leonard Stavropolskiy, DC, PT
LEONARD STAVROPOLSKIY, DC, PT